



DAC

ADMA Products, Inc.

ADVANCE MATERIALS PRODUCTS, INC.

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450, Alexandria, VA 22313-1450

July 27, 2006

Ref: Statement that the entire delay in the consideration of Application # 10/748,619 was unintentional

PETITION FOR REVIVAL OF AN APPLICATION # 10/748,619 FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

This is to apply for revival of our Application # 10/719,619 "Fully-dense discontinuously-reinforced titanium matrix composites and method for manufacturing the same".

This Application was abandoned unintentionally because ADMA Products, Inc. changed our business address in the middle of the file consideration performed by the US Patent Office. This resulted in a loss of some correspondence which was sent to our old address. The situation with this communication issue between our company and Patent Office was described in our letter to Mr. John Dudas of June 20, 2006, in a response we received from Mrs. M. B. Fleisher, Chief of Staff dated June 30, 2006 and in your Decision (signed by S. W. Brantley, Senior Petition Attorney on July 3, 2006) which was probably based on our previous Petition. The copies of these three letters are enclosed for your convenience. We also enclosed the other required documents and a list of these documents is given below:

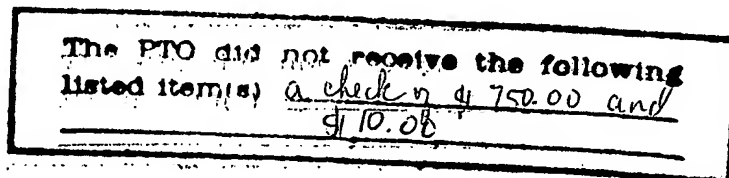
- (a) signed Petition Form PTO/SB/64 (10-05);
- (b) a check #4715 for \$750.00 – the required petition fee according 1.17 (m);
- (c) a check #4716 for \$10.00 - balance due on the filing fee;
- (d) copy of our letter to Mr. John Dudas dated June 20, 2006;
- (e) copy of letter from Mindy B. Fleisher, Chief of Staff, dated 06/30/06;
- (f) Copy of your Decision dated July 3, 2006.

Please re-consider our Application 10/748,619 and issue a patent for our invention.

Sincerely,


Dr. Vladimir S. Moxson, President

Enclosures



1890 Georgetown Road
Hudson, Ohio 44236
Telephone (330) 650-4000
Fax (330) 650-0030
www.admaproducts.com

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

First named inventor: Volodymyr Duz

Application No.: 10/748,619

Art Unit:

Filed: 12/27/03

Examiner:

Title: Fully-dense discontinuously-reinforced titanium matrix
composites and method for manufacturing the same

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (571) 272-3282.The above-identified application became abandoned for failure to file a timely and proper reply to a notice or
action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration
date of the period set for reply in the office notice or action plus an extensions of time actually obtained.**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications
filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee☒ Small entity-fee \$ 750.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))**2. Reply and/or fee**A. The reply and/or fee to the above-noted Office action in
the form of _____ (identify type of reply):

- ☐ has been filed previously on _____.
- ☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ _____.

- ☐ has been paid previously on _____.
- ☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

- ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

V. Moxson vlad. d. Duz Shapiro
Signature

07/27/06
Date

Vladimir Moxson, Volodymyr Duz, Alexander Shapiro

Typed or printed name

Registration Number, if applicable

1890 Georgetown Road

(330) 650-4000

Address

Telephone Number

Hudson, OH 44236

Address

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

07/27/06

Date

Vlad A. Duz

Signature
Volodymyr Duz

Typed or printed name of person signing certificate



Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Ref: Statement that the entire delay in the consideration of Application # 10/748,619 was unintentional

PETITION FOR REVIVAL OF AN APPLICATION # 10/748,619 FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

We apply for revival of our Application # 10/719,619 "Fully-dense discontinuously-reinforced titanium matrix composites and method for manufacturing the same".

This Application was abandoned unintentionally because our company changed business address in the middle of the file consideration by the US Patent Office that resulted in a loss some communications which continue to come to the old address. The full story of the communication between inventors and Patent Office was described in our letter to Mr. Jon Dudas from, in a response from Mrs. M. B. Fleisher – Chief of Staff (copy enclosed) and in your Decision from July 3, 2006 on our previous Petition signed by S. W. Brantley, Senior Petition Attorney (copy enclosed).

Please find enclosed:

- (a) signed Petition Form PTO/SB/64 (10-05),
- (b) a check # for \$750.00 – the required petition fee according 1.17 (m),
- (c) a check # For \$10.00 - balance due on the filing fee,
- (d) Letter of Mindy B. Fleisher – Chief of Staff, from 06/30/06, and
- (e) Copy of your Decision from July 3, 2006 on our previous Petition.

Please re-consider all papers related to our Application 10/748,619 to issue the patent upon our invention.

Sincerely,

Dr. Vladimir S. Moxson
President



ADMA Products, Inc.
ADVANCE MATERIALS PRODUCTS, INC.

June 20, 2006

Mr. John Dudas
US Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

This letter was sent by certified mail

Ref: Patent Application # 10/748,619 filed on December 27, 2003.

Dear Mr. Dudas,

We are writing this letter regarding our Patent Application # 10/748,619 "Fully-dense discontinuously-reinforced titanium matrix composites and method for manufacturing the same" and requesting your help in resolving our filing issues.

This application was filed on December 2003 and we were trying to find out its status by using your web site. Although it was quite a while since we applied, your site indicates even today that, "Sorry, the entered application Number "10/748,619" is not available. The number may have been incorrectly typed or assigned to an application that is not yet available for public inspection". Last week we called your Office and found out that this application was abandoned as non-responsive. Your employee also indicated that your Office sent a letter, but did not get our response. During this conversation, we also discovered that your Office sent this letter to our old address although we informed your personnel that we moved and provided your staff with our correct address information a number of times.

After filing this Application on 12/27/2003, our company moved and changed our address back in 2004. We requested your Office to correct the files back on 9/8/2004. A copy of that letter sent to Ms. Diane Russele is enclosed. However a Notice of Abandonment of 01/10/2005 (enclosed) still came to our old address and we got it too late. Nevertheless, we responded to this letter on 01/30/2005 to Mrs. Doshi Day (enclosed) after a phone conversation with her, and we applied for a Petition to Withdraw Holding of Abandonment which was accompanied by

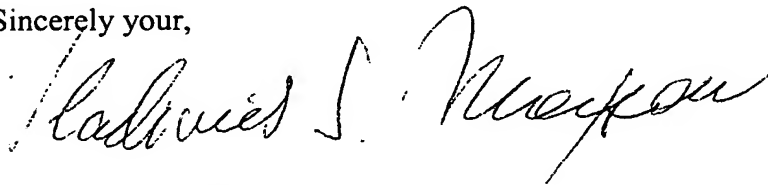
1890 Georgetown Road
Hudson, Ohio 44236
Telephone (330) 650-4000
Fax (330) 650-0030
www.admaproducts.com

payment indicating our correct address on each check and letter head and our request was accepted by the US Patent Office, but no correcting of our address was incorporated in your files. Your Office continued to send the letters and Notices to the old address during 2005, and we could not receive them, despite to the fact that our Petition was granted.

When we called to your US Patent Office in order to know the status of the Application, last week, I was told that we did not respond to your letter of April 2005 and, as a result our file was closed. We disagree with this action because we did not receive this and other Notices from your Office since your employees did send their correspondence to the wrong address. It is important to note here, that our checks deposited by your Office have our correct address, all our correspondence was accompanied with the covered letters indicating our correct address and we informed your people in writing a number of times that our company changed address since 2004.

I would like to ask you to re-consider our Application with the initial priority date and the NEW ADDRESS and grant the procedure of its examination of our Patent Application without any additional delays.

Sincerely your,

A handwritten signature in black ink, appearing to read "Vladimir S. Moxson". The signature is fluid and cursive, with the first name "Vladimir" and last name "Moxson" clearly distinguishable.

Dr. Vladimir S. Moxson

Enclosures.



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS

June 30, 2006

Dr. Vladimir S. Moxson
1890 Georgetown Road
Hudson, OH 44236

Dear Dr. Moxson:

Thank you for your letter to Jon Dudas, Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (USPTO), regarding patent application 10/748,619. Your letter has been forwarded to the Office of the Commissioner for Patents for response since it pertains to patent matters.

You state in your letter that after you filed your application on December 27, 2003, your company moved. You state that a letter was sent on September 8, 2004 indicating your change of address. However, a Notice of Abandonment was mailed on January 10, 2005 to your old address and you received it late. You then filed for a Petition to Withdraw Holding of Abandonment on January 30, 2005, but that the USPTO continued to send mail to your old address during 2005 despite the fact that your petition was granted. When you inquired about the status of your application in June 2006, you were told that the application was abandoned for not responding to a communication mailed by the USPTO in April 2005. You request that the application be reconsidered for examination and that the USPTO grant the original priority date.

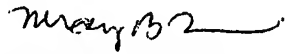
We have changed your address in our electronic database in response to this letter. A review of our electronic database does not show receipt of any communication that changed your address with the USPTO prior to this letter. A Notice of Abandonment was mailed on January 10, 2005 and the Office received a Petition to Withdraw Holding of Abandonment on March 8, 2005, but the petition has not yet been decided. We apologize for the delay in deciding the petition, as this was due to an error that occurred in an office processing procedure. The petition is currently in the Office of Petitions and a decision should be rendered within a week. No other mail was sent to your old address in 2005. The application is abandoned for not responding to the communication mailed by the USPTO on April 13, 2004, not April 13, 2005, and because the Petition to Withdraw the Holding of Abandonment was never decided.

If the Office grants the petition, then your application will be back on track to be examined. If the Office dismisses your petition, you may petition to revive the application pursuant to 37 CFR 1.137(a) for unavoidable delay in responding to the April 13, 2004 communication or 37 CFR 1.137(b) for unintentional delay in responding to the April 13, 2004 communication.

http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c

I hope this information is useful. If you have any further questions specific to this letter, please contact Bill Korzuch at (571) 272-8800.

Sincerely,

A handwritten signature in black ink, appearing to read "Mindy B. Fleisher", with a stylized flourish at the end.

Mindy B. Fleisher

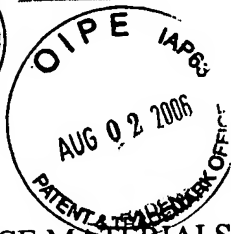
Chief of Staff

Office of the Commissioner for Patents



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov



ADVANCE MATERIALS PRODUCTS, INC.
1890 GEORGETOWN ROAD
HUDSON, OH 44236

COPY MAILED

JUL 03 2006

OFFICE OF PETITIONS

In re Application of
Moxson et al.
Application No. 10/748,619
Filing Date: December 27, 2003
For: FULLY-DENSE DISCONTINUOUSLY-
REINFORCED TITANIUM MATRIX
COMPOSITES AND METHOD FOR
MANUFACTURING THE SAME

Decision on Petition

This is a decision on the petition filed March 8, 2005, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." If petitioners file a petition to revive under 37 CFR 1.137(a) or 1.137(b), the cover letter should be entitled accordingly. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The application was filed December 27, 2003.

The application indicated all correspondence should be mailed to:

ADMA Products, Inc.
8180 Boyle Parkway
Twinsburg, OH 44087

The filing fee due for the application was \$385. Petitioner only-submitted \$370.

Petitioners recorded an assignment on March 10, 2004. Petitioners indicated all correspondence related to the assignment should be mailed to:

ADMA Products, Inc.
Vladimir S. Moxson, President
8180 Boyle Parkway
Twinsburg, OH 44087

A Notice to File Missing Parts was mailed to the address of record on April 13, 2004. The Notice stated petitioner owed an additional \$15 for the filing fee and \$65 for the surcharge required when a filing fee is paid in full on a date after the filing date for the application. The Notice set an extendable period for reply of two (2) months from the mail date of the Notice.

Petitioners failed to reply to the Notice to File Missing Parts. As a result, the application became abandoned on midnight of June 13, 2004.

Petitioners have supplied a copy of a letter allegedly mailed on September 8, 2004, requesting assignment division change its address for the application to:

1890 Georgetown Road
Hudson, OH 44236

The letter was mailed to an improper address. On September 8, 2004, the correct mailing address for Patent and Trademark Office was:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The address on the letter was *never* a correct address for the Patent and Trademark Office. The letter to the Office was addressed to:

Ms. Diane Russele, Paralegal
U.S. Patent and Trademark Office
Assignment Division
Box Assignments, CG-4
1213 Jefferson Davis HWY
Suite 320
Washington, DC 20231

The address above is a combination of the physical address for the USPTO and the mailing address. The address instructed the USPS to deliver the mail to "1213 Jefferson Davis HWY, Suite 320" which was an address located in Arlington, Virginia. However, the letter stated the address was located in Washington, DC. Office records fail to indicate receipt of the September 8, 2004 letter.

It is noted that the September 8, 2004 change of correspondence address is signed by Dr. Vladimir S. Moxson, President of ADMA Products, Inc.. The required 373(b) statement did not accompany the change of correspondence address.

A Notice of Abandonment was mailed to the "Boyle Parkway" address on January 10, 2005. Although the Notice of Abandonment was mailed to the old address, petitioners appear to have received the Notice on or before January 30, 2005.

The instant petition was filed March 8, 2005.

Petitioners have not alleged a request to change the correspondence address was filed on or before April 13, 2004. Therefore, the Office properly mailed the Notice to File Missing Parts to the then-current correspondence address of record on April 13, 2004.

Petitioners state,

[W]e did not receive [the Notice] mailed on 04/13/2004. This Notice to File Missing Parts was received by our request only 01/27/05.

Petitioners have stated that the April 13, 2004 Notice was mailed to the "old address." As stated above, the "Boyle Parkway" address was the correspondence address of record when the April 13, 2004 Notice was mailed. Put simply, the September 8, 2004 flawed change of correspondence address was filed after the April 13, 2004 Notice was mailed.

A review of the record indicates no irregularity in the mailing of the April 13, 2004 Notice, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicants at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received at the correspondence address of record.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.¹

The showing in the instant petition is not sufficient to withdraw the holding of abandonment because it does not meet requirements 1 and 2 above. In addition, petitioners must provide a statement for the record that ADMA Products, Inc.'s address was the "Boyle Parkway" address on April 13, 2004, when the Notice was mailed.

¹ See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

The petition is dismissed and the application remains abandoned.

Petitioners are informed that on December 8, 2004, the basic filing fee increased by \$10.00. Therefore, petitioners owe an additional \$10.00. This amount must be submitted with any follow-up petition.

If petitioners are unable to provide the required evidence to prove non-receipt and obtain a withdrawal of the holding of abandonment, petitioners may wish to consider filing a petition to revive under 37 CFR 1.137(a) – the unavoidable standard – or 37 CFR 1.137(b) – the unintentional standard.

Please keep in mind that a delay caused by the failure on the part of an applicant to provide the Office with a current correspondence address does not constitute an unavoidable delay. See Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995). A change of address must be made in a conspicuous manner. The Office will not change the correspondence address of record based on the fact that an address on a check or on letterhead is different from the correspondence address of record. A specific request by a proper party must be submitted.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (\$10.00 balance due on the filing fee), the required petition fee (\$ 750.00 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A copy of a blank petition form PTO/SB/64 is enclosed for petitioners' convenience.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
 Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
 Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.



Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: blank form PTO/SB/64- PETITION FOR REVIVAL OF AN APPLICATION
FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR
1.137(b)